2025:DHC:1322-DB

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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

Judgment reserved on: 21.02.2025
% Judgment delivered on: 28.02.2025

\+ LPA 133/2025, CM APPLs. 10779/2025, 10780/2025, 10781/2025, 10782/2025, 10783/2025, & 10784/2025

GOVIND YADAV .....Appellant

Through: Mr. Rakesh Kaushik Pathak and Mr. Rakesh Sharma, Advs.

Versus

UNION OF INDIA AND ORS. .....Respondents

Through: Mr. Shashank Bajpai, CGSC with Mr. Anubhav Tyagi, GP, Ms. Stuti Karwal, Ms. Gopi, Advs.

CORAM:
HON'BLE THE CHIEF JUSTICE
HON'BLE MR. JUSTICE TUSHAR RAO GEDELA

J U D G M E N T

DEVENDRA KUMAR UPADHYAYA, C.J.

CHALLENGE

1. The proceedings of this intra-court appeal have been instituted by the appellant/petitioner under Clause 10 of Letters Patent taking exception to the judgment dated 29.08.2024, passed by learned Single Judge whereby, *W.P.(C) 2137/2023* filed by the appellant/petitioner has been dismissed.

2. The appellant/petitioner had instituted the aforesaid writ petition before the learned Single Judge primarily seeking a declaration that

communications dated 10.11.2016, 13.11.2019, 18.02.2021, 03.08.2021 and 27.09.2021 made by a political party, namely, Janta Dal (United) (*hereinafter referred to as* 'JDU') under Section 29A of the Representation of the People Act, 1951 (*hereinafter referred to as* 'RP Act') are null and void for the reason that such communications contained names of officer bearers of JDU on the basis of alleged fraudulently conducted elections in contravention of the Constitution and Rules governing the affairs of JDU.

3. Challenge was also made by appellant/petitioner before the learned Single Judge seeking a declaration that his expulsion and expulsion of other members from the membership of JDU is also null and void. It was further prayed in the writ petition that a direction be issued to Election Commission of India (*hereinafter referred to as* 'ECI') acknowledging only such changes in the particulars relating to JDU which are communicated under Section 29A (9) of the RP Act that have been brought in accordance with the provisions of the Constitution and the Rules of JDU. It was also prayed that direction may be issued to Union of India as also to the ECI to take appropriate action against respondent nos.3 to 10 for the alleged misdemeanors and the offences committed by them. A direction was also sought by the appellant/petitioner in the writ petition for ensuring free and fair organizational elections of JDU under the supervision of Returning Officer to be appointed by the Court, at all levels in accordance with the Constitution and Rules of the JDU after providing an opportunity of renewal of membership and updating electoral rolls in all the state units and at all India level of the party.

4. By the judgment under challenge in this appeal, learned Single Judge did not accede to the prayers made in the writ petition and dismissed the same by holding primarily that the reliefs sought in the writ petition fall outside the purview of the inquiry as contemplated under Section 29A of the RP Act.

5. It is this judgment of learned Single Judge which the appellant/petitioner seeks to assail in the proceedings of the instant appeal

FACTS

6. Certain facts which are relevant for the purposes of appropriate adjudication of the issues involved in this appeal that can be culled out from the pleadings available before us are as under:-

a) JDU is a recognized State Political Party in terms of the provisions contained in The Election symbols (Reservations and Allotment) Order, 1968 (*hereinafter referred to as* 'Symbols Order'). As per the requirement of 29A (9) of the RP Act, certain communications were made to the ECI regarding changes in the name of the officer bearers *vide* correspondences dated 10.11.2016, 13.11,2019, 18.02.2021, 03.08.2021 and 27.09.2021.

b) As per the assertion of the appellant/petitioner, he was elected as the State President of Madhya Pradesh Unit and that he has occupied various significant positions in the said political party.

c) By communication dated 11.04.2016, ECI was intimated that respondent no.3 was elected as President of JDU in an organizational election held under the Constitution of the said Political Party. The appellant/petitioner disputed the election of respondent no.3 as the President of JDU on the count that the same was not in accordance with the

Constitution of the JDU and accordingly, he is said to have submitted a representation on 04.11.2016, along with three other individuals wherein, he raised certain objections and pointed out alleged illegalities in the organizational elections of JDU.

d) Another complaint by one Mr. Thakur Balbir Singh is also said to have been lodged with the ECI *vide* his letter/communication dated 17.02.2017.

e) The ECI *vide* its communication dated 07.02.2017, intimated the appellant/petitioner and also Mr. Thakur Balbir Singh that forum for raising such disputes regarding internal party elections, has been provided in Clause XVII of the Constitution of JDU and that there is also a provision for appeal in respect of disciplinary action in clause 21(VIII) of the Party Constitution.

f) The commission also stated that if the appellant/petitioner so desired, he may avail the remedy under the said provisions available in the party Constitution and that expulsion from the membership etc. are civil matters and therefore, if the appellant/petitioner so desired, he may approach the appropriate Courts in this regard for redressal of his grievances.

g) Appellant/petitioner, thereafter, submitted a detailed representation on 10.03.2017, which too was considered by the ECI which again communicated the appellant/petitioner on 24.05.2017 that the ECI does not inquire into the disputes raised in their representation, such as the dispute in respect of the irregularities in enrollment of members in the party and in respect of matters regarding elections to State Councils and the electoral list for election of Party President. It was also stated in the communication dated

24.05.2017 by the ECI that in respect of the issues raised earlier, the ECI had already communicated its stand *vide* ECI's letter dated 07.02.2017.

h) It is noticeable at this juncture itself that the appellant/petitioner did not challenge the aforesaid communications dated 07.02.2017 and 24.05.2017 by taking recourse to any remedy available to him under law; neither did he institute any proceedings before the Court of competent civil jurisdiction for the redressal of his grievances raised in the representations made by him to the ECI.

i) Thereafter, JDU *vide* its communication dated 13.11.2019 informed the ECI that party elections were held and respondent no.3 was re-elected as its President. It was further communicated to the ECI by JDU on 27.09.2021 that national office bearers were elected and respondent no.6 was appointed as the Party President. It was also communicated *vide* letter dated 04.01.2024, that respondent no.3 was again elected as President following the resignation of respondent no.6 from the said party position, who was appointed as President on 14.02.2024. Thus, the communicates in respect of which a declaration was sought by the appellant/petitioner by filing the writ petition before the learned Single Judge were in respect of election/changes in the officer bearers of the party and such communications were made as per the requirement of Section 29A (9) of the RP Act.

j) Challenging these communications made by JDU under Section 29A (9) of the RP Act, the proceedings of the writ petition were instituted by the appellant/petitioner on the ground that while taking such communications on record under Section 29A (9) of the RP Act, the ECI ought to have conducted an inquiry to ascertain the authenticity and validity of such

elections/changes in the office bearers ensuring that elections were held in terms of the provisions of the Constitution of the Party. However, learned Single Judge did not grant the prayers made in the writ petition and dismissed the same by the judgment under challenge herein.

SUBMISSIONS ON BEHALF OF THE APPELLANT/PETITIONER

7. It has been argued by learned counsel representing the appellant/petitioner that it is incumbent upon the ECI to satisfy itself on an inquiry, especially in case of objections, that the changes in the names of the office bearers of the political party and any other material matters which are communicated to it are based on genuine and valid elections and are supported by correct facts.

8. The main plank of argument advanced by learned counsel representing the appellant/petitioner is that the ECI is not only vested with the power to conduct such an inquiry under Section 29A (9) of the RP Act, but as a matter of fact, it is mandatory on the part of the ECI to conduct an inquiry, in case of any objections, for the purposes of satisfying itself as to the correctness and validity of the information sent to it under Section 29A (9) of the RP Act and by not doing so, if such information is taken on record by the ECI, the same would be null and void.

9. Submission made on behalf of appellant/petitioner hinges around the interpretation regarding nature, scope and extent of powers of ECI under the provisions contained in Section 29A (9) of the RP Act. It has thus been contended by the learned counsel representing the appellant/petitioner that it is the duty of the ECI to conduct an inquiry, if the information regarding the

election or any other material matter communicated to the ECI is objected to.

10. The submission is that taking any information on record under Section 29A (9) of the RP Act intrinsically casts a duty on the ECI to ensure the validity and authenticity of such information. On the strength of the aforesaid contentions, it has been argued by learned counsel for the appellant/petitioner that learned Single Judge has erred in law in not correctly appreciating the scope and extent of the powers and duties of the ECI under Section 29A (9) of the RP Act and accordingly, the judgment rendered by the learned Single Judge, which is under challenge herein is flawed and therefore, deserves to be set aside. In support of his contentions, learned counsel representing the appellant/petitioner has relied upon the judgment of a Coordinate Bench of this Court dated 16.03.2012, in ***LPA 522/2011, Chandra Prakash Kaushik v. Election Commission of India & Anr.*** He has also relied upon another Division Bench judgment of this Court dated 06.09.2021, rendered in ***LPA 363/2020, Swami Chakrapani v. Election Commission of India***. Reliance has also been placed on the judgment of the Hon'ble Supreme Court, dated 11.05.2023, in ***Subhash Desai v. State of Maharashtra, (2024) 2 SCC 719.***

SUBMISSIONS ON BEHALF OF RESPONDENT/ECI

11. Opposing the instant appeal, learned counsel representing the ECI has vehemently argued that the submissions made on behalf of the appellant/petitioner are absolutely misconceived, having regard to the provisions of Section 29A (9) of the RP Act. He has also argued that the judgment of the learned Single Judge, which is under challenge herein,

correctly appreciates the ambit and scope of Section 29A (9) of the RP Act which does not vest any power or authority or jurisdiction in the ECI to entertain any dispute in relation to elections of office bearers of a political party and as a matter of fact, authority available to ECI under the said provisions is only ministerial in nature and in case, any information has been taken on record, under Section 29A (9) of the RP Act by the ECI and if any one disputes the same, such a person has to establish his rights by instituting appropriate proceedings before Civil Court.

12. It has, thus, been argued on behalf of ECI that correct legal position as set out in the communications dated 07.02.2017 and 24.05.2017 made by the ECI was made known to the appellant/petitioner, however, instead of getting his rights established by instituting appropriate suit in Civil Court, he filed the writ petition which has rightly been dismissed. The learned counsel for the ECI further submits that therefore, the judgment rendered by the learned Single Judge, which is assailed in the proceedings of the instant appeal does not warrant any interference by this Court in this appeal which is liable to be dismissed.

ISSUE

13. Having regard to the pleadings of the respective parties and the submissions made on their behalf, the only issue which arises for consideration before this Court is in respect of the scope and ambit of the powers of the ECI under Section 29A(9) of the RP Act. The issue, thus, that emerges for our adjudication is as to whether, if any information furnished to the ECI under Section 29A (9) of the RP Act is disputed, ECI is empowered or has jurisdiction to adjudicate such disputes, or rights being asserted by the

disputant to the information furnished, can be adjudicated before a Court of competent civil jurisdiction.

ANALYSIS

14. For appreciating the respective arguments made by learned counsel representing the parties, the scheme available in Part IV A of the RP Act needs to be noticed. Part IV A of the RP Act has been inserted by the Parliament by enacting The Representation of the People (Amendment) Act, 1988, Act no.1 of 1989 (*hereinafter referred to as the* 'Act 1 of 1989') which came into force with effect from 15.06.1989. Part IV A is in respect of 'Registration of Political Parties' which is apparent from the heading with which is commences. Section 29A (9) of the RP Act is extracted hereunder:

"[PART IVA
REGISTRATION OF POLITICAL PARTIES

29A. Registration with the Election Commission of associations and bodies as political parties.*—(1) Any association or body of individual citizens of India calling itself a political party and intending to avail itself of the provisions of this Part shall make an application to the Election Commission for its registration as a political party for the purposes of this Act.*

(2) Every such application shall be made,—

(a) if the association or body is in existence at the commencement of the Representation of the People (Amendment) Act, 1988 (1 of 1989), within sixty days next following such commencement;

(b) if the association or body is formed after such commencement, within thirty days next following the date of its formation.

(3) Every application under sub-section (1) shall be signed by the chief executive officer of the association or body (whether such chief executive officer is known as Secretary or by any other designation) and presented to the Secretary to the Commission or sent to such Secretary by registered post.

(4) Every such application shall contain the following particulars, namely:—

(a) the name of the association or body;

(b) the State in which its head office is situate;

(c) the address to which letters and other communications meant for it should be sent;

(d) the names of its president, secretary, treasurer and other office-bearers;

(e) the numerical strength of its members, and if there are categories of its members, the numerical strength in each category;

(f) whether it has any local units; if so, at what levels;

(g) whether it is represented by any member or members in either House of Parliament or of any Stale Legislature; if so, the number of such member or members.

(5) The application under sub-section (1) shall be accompanied by a copy of the memorandum or rules and regulations of the association or body, by whatever name called, and such memorandum or rules and regulations shall contain a specific provision that the association or body shall bear true faith and allegiance to the Constitution of India as by law established, and to the principles of socialism, secularism and democracy, and would uphold the sovereignty, unity and integrity of India.

(6) The Commission may call for such other particulars as it may deem fit from the association or body.

(7) After considering all the particulars as aforesaid in its possession and any other necessary and relevant factors and after giving the representatives of the association or body reasonable opportunity of being heard, the Commission shall decide either to register the association or body as a political party for the purposes of this Part, or not so to register it; and the Commission shall communicate its decision to the association or body: Provided that no association or body shall be registered as a political party under this sub-section unless the memorandum or rules and regulations of such association or body conform to the provisions of sub-section (5).

(8) The decision of the Commission shall be final.

> *(9) After an association or body has been registered as a political party as aforesaid, any change in its name, head office, office-bearers, address or in any other material matters shall be communicated to the Commission without delay.]"*

15. A perusal of Section 29A of the RP Act, as extracted herein above, reveals that the said provision was inserted by the Parliament in the Principal Act for the purpose of regulating registration of associations and bodies with the ECI as political parties. If we closely scrutinize the scheme contained in Section 29A of the RP Act, which is spread in various sub-sections, what we find is that any association or body or even individual citizens of India which intend to call itself a political party and to avail itself of the provisions of Part IVA of the RP Act, is required to make an application for its registration as a political party to the ECI.

16. Sub-Section 2 of Section 29A of the RP Act requires the association or the body seeking registration as a political party to make an application within 60 days following the commencement of Act 1 of 1989 if such a body or association has been in existence at the time of commencement of the Act. It further provides that in a situation where the association or the body is formed after commencement of Act 1 of 1989, such a body or association is required to make the application seeking its registration as a political party within 30 days from the date of formation of such an association or body.

17. Sub-Section 3, 4 and 5 of Section 29A of the RP Act provides for who can make the application, the contents of the application and the documents and other materials to be accompanied by such an application.

18. Sub-Section 6 of Section 29A of the RP Act vests the power in the ECI to call for particulars which may be deemed fit from the association or

the body seeking its registration as a political party. Sub-Section 7 of the Section 29A of the RP Act provides that ECI, after considering the particulars submitted to it and all other necessary and relevant factors and also after giving opportunity of being heard to the representative of the association or the body, shall decide either to register the association or the body as a political party or to not register it. It also mandates the ECI to communicate its decision to the association or the body concerned. The proviso appended to sub-Section 7 of Section 29A of the RP Act provides that no association or body shall be registered as a political party unless the memorandum or rules and regulations of such association or body are found to be in conformity with the provisions of sub-Section 5 of Section 29A of the RP Act.

19. Sub-Section 8 of Section 29A of the RP Act provides that the decision of the ECI in regard to registration of a political party shall be final.

20. Sub-Section 9 of Section 29A of the RP Act, with which we are primarily concerned in this appeal, requires that if any change in the name of the body or association registered as a political party or change in its head office, office bearers, address or in any other material matters occurs, the same shall be communicated to the ECI without delay.

21. Thus, what has been provided for by the legislature, while enacting sub-Section 9 of Section 29A of the RP Act is that in case of any alteration or change in the name, office bearers, etc., such an alteration or change needs to be communicated to the ECI. A plain reading of Section 29A of the RP Act would suggest that the legislative scheme provided therein is for the purposes of registration of an association or a body as political party. In our

considered opinion, sub-Section 9 of Section 29A of the RP Act is, thus, to be construed within the broader legislative scheme of Section 29A of the RP Act. Since Section 29A of the RP Act provides for registration of an association or a body as a political party, we are of the unambiguous view that requirement of submission of information relating to change in the name and office bearers etc., as contemplated in sub-Section 9 of Section 29A of the RP Act, is for the purposes of maintaining proper and up to date record of the political party registered by the ECI.

22. No other purpose, in fact, of keeping sub-Section 9 of Section 29A of the RP Act in the statute book can possibly be gathered.

23. If the submission made on behalf of the appellant/petitioner are analyzed in the context of the scheme of Section 29A of the RP Act and the purpose of its enactment, what we find is that we are called upon by the appellant/petitioner to construe sub-Section 9 of Section 29A of the RP Act by supplying certain words and phrases which are otherwise absent in the said provision. This observation is based on the submissions urged by learned counsel for the appellant/petitioner that once the information as contemplated in sub-Section 9 of Section 29A of the RP Act is furnished, it can be taken on record only on an inquiry into the authenticity and correctness of such information in a situation where objection to such information is raised. The insistence on the part of the appellant/petitioner is to the effect that some kind of adjudicatory process needs to be adopted by the ECI in such a situation to determine as to whether the information submitted to it is correct and authentic or not.

24. Since from a plain reading of sub-Section 9 of Section 29A of the RP Act it is apparent that the said provision neither vests any power nor jurisdiction in the ECI to undertake any such adjudication, the interpretation sought to be given by the appellant/petitioner will be possible only of we read something, as urged by the appellant/petitioner, which is not otherwise expressly available in the said provision. In other words, the appellant/petitioner urges the Court to adopt the golden rule of construction and interpretation of Statutes where, it is permissible for the Court to depart from its plain meaning.

25. However, it is trite in law that golden rule of construction or interpretation is to be restored to by the Courts only in case a statute, if interpretated using the ordinary meaning of the language, leads to some irrational or absurd results. The literal rule of interpretation can be departed and golden rule be applied also in a situation where the literal meaning assigned to a provision leads to repugnancy or inconsistency with the rest of the statute.

26. The Hon'ble Supreme Court in ***State of Jharkhand v. Govind Singh, (2005) 10 SCC 437*** has held that when words of a statute are clear, plain and unambiguous, the Courts are bound to give effect to that meaning and that intention of the legislature is primarily to be gathered from the language used.

27. It has further been held in the said judgment that a construction which requires for its support, addition or substitution of words or which results in rejection of words as meaningless has to be avoided.

28. In ***Govind Singh(supra)*** it has been observed by the Hon'ble Supreme Court that where there is no obscurity and words are clear and there is no ambiguity and the intention of the legislature is clearly conveyed, there is no scope for the Court to innovate or take upon itself the task of amending or altering the statutory provisions. The observations made in paragraphs 10, 11, 12 and 15 of the aforesaid decision are relevant which are extracted herein below:-

> *"10. When the words of a statute are clear, plain or unambiguous i.e. they are reasonably susceptible to only one meaning, the courts are bound to give effect to that meaning irrespective of consequences. The intention of the legislature is primarily to be gathered from the language used, which means that attention should be paid to what has been said as also to what has not been said. (See J.P. Bansal v. State of Rajasthan [(2003) 5 SCC 134 : 2003 SCC (L&S) 605] .)*
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> *11. As a consequence, a construction which requires for its support addition or substitution of words or which results in rejection of words as meaningless has to be avoided. As was noted by the Privy Council in Crawford v. Spooner [(1846) 6 Moo PC 1 : 4 MIA 179] :*
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> > *"We cannot aid the legislature's defective phrasing of an Act, we cannot add or mend and, by construction make up deficiencies which are left there."*
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> *The view was reiterated by this Court in State of M.P. v. G.S. Dall and Flour Mills [1992 Supp (1) SCC 150 : AIR 1991 SC 772] and State of Gujarat v. Dilipbhai Nathjibhai Patel [(1998) 3 SCC 234 : 1998 SCC (Cri) 737 : JT (1998) 2 SC 253] . Speaking briefly, the court cannot reframe the legislation, as noted in J.P. Bansal case [(2003) 5 SCC 134 : 2003 SCC (L&S) 605] for the very good reason that it has no power to legislate.*
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> *12. It is said that a statute is an edict of the legislature. The elementary principle of interpreting or construing a statute is to gather the mens or sententia legis of the legislature.*

> *15. Where, however, the words were clear, there is no obscurity, there is no ambiguity and the intention of the legislature is clearly conveyed, there is no scope for the court to innovate or take upon itself the task of amending or altering the statutory provisions. In that situation the judges should not proclaim that they are playing the role of a lawmaker merely for an exhibition of judicial valour. They have to remember that there is a line, though thin, which separates adjudication from legislation. That line should not be crossed or erased. This can be vouchsafed by "an alert recognition of the necessity not to cross it and instinctive, as well as trained reluctance to do so". (See Frankfurter:"Some Reflections on the Reading of Statutes" in Essays on Jurisprudence, Columbia Law Review, p. 51.)"*

29. In ***B. Premanand v. Mohan Koikal, (2011) 4 SCC 266,*** Hon'ble Supreme Court has held that the first and foremost principle of interpretation of a statute is the literal rule of interpretation and that the other rules of interpretation can only be resorted to when the plain words of a statute are ambiguous and lead to no intelligible results or, if read literally, would nullify the object of the statute. The Supreme Court has further held that where the words of a statute are clear and unambiguous, recourse cannot be had to the principles of interpretation other than the literal rule.

30. We are also of the opinion that once the Court takes recourse to any other rule of interpretation other than the literal rule, numerous interpretations can be put to a statutory provision which would be legally not permissible. This finds support from the observations made by the Hon'ble Supreme Court in ***B. Premanand (supra)*** in paragraph nos.9 and 13. The same are extracted herein below:-

> *"9. It may be mentioned in this connection that the first and foremost principle of interpretation of a statute in every system of interpretation is the literal rule of interpretation. The other rules of interpretation e.g. the mischief rule, purposive interpretation, etc. can only be resorted to when the plain words of a statute are ambiguous or lead to*

> *no intelligible results or if read literally would nullify the very object of the statute. Where the words of a statute are absolutely clear and unambiguous, recourse cannot be had to the principles of interpretation other than the literal rule, vide Swedish Match AB v. SEBI [(2004) 11 SCC 641 : AIR 2004 SC 4219] .*
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> *13. In other words, once we depart from the literal rule, then any number of interpretations can be put to a statutory provision, each Judge having a free play to put his own interpretation as he likes. This would be destructive of judicial discipline, and also the basic principle in a democracy that it is not for the Judge to legislate as that is the task of the elected representatives of the people. Even if the literal interpretation results in hardship or inconvenience, it has to be followed (see G.P. Singh's Principles of Statutory Interpretation, 9th Edn., pp. 45-49). Hence departure from the literal rule should only be done in very rare cases, and ordinarily there should be judicial restraint in this connection."*

31. Having regard to the law as discussed above as to when Court can depart from the literal rule of interpretation, we are of the opinion that since the language and words used in sub-Section 9 of Section 29A of RP Act are plain and simple, there is no need of resorting to the golden rule of interpretation or for that matter any other rule of interpretation of statute.

32. If sub-Section 9 of Section 29A of RP Act is to be assigned the meaning, as has been sought to be assigned by the appellant/petitioner, the same would require the Court to supply certain words and phrases which is not permissible for the reason that such interpretative process or process of construction of a statute is permissible only in case of ambiguity in the provision or in a situation where plain meaning of the statute leads to some absurdity or repugnancy or inconsistency with the rest of the provisions of the statute.

33. Learned counsel for the appellant/petitioner has attempted to interpret sub-Section 9 of Section 29A of RP Act in a manner which would empower the ECI to travel into a kind of adjudicatory process in case there is an objection to the information supplied to it as contemplated in the said provision.

34. A plain reading of sub-Section 9 of Section 29A of RP Act, without any ambiguity, leads the Court to conclude that no such adjudicatory authority has been intended by the legislature to be provided to the ECI. If the provisions of sub-Section 9 of Section 29A of RP Act are read as it is, such a reading does not lead to any ambiguity, uncertainty, repugnancy or inconsistency with the rest of the provisions of Section 29A of RP Act. Accordingly, we are not persuaded by the learned counsel representing the appellant/petitioner that something more needs to be read in sub-Section 9 of Section 29A of RP Act in addition to what the legislature itself has provided in the said provision to come to the conclusion that ECI has been vested with some kind of adjudicatory mechanism or with a mechanism to conduct any kind of inquiry in a situation where the information furnished to it is objected to.

35. In the light of the discussions made above, we are of the considered opinion that sub-Section 9 of Section 29A of RP Act does not provide for any mechanism of adjudicating any dispute raised before it in respect of the information furnished under Section 29A (9) of RP Act; neither the ECI is vested with a jurisdiction to conduct any such inquiry as is being pressed for by the learned counsel representing the appellant/petitioner.

36. We may also refer to a judgment of the Hon'ble Supreme Court in the case of ***A.P. Aboobaker Musaliar v. Distt. Registrar (G), (2004) 11 SCC 247*** which is in respect of Section 4 of Societies Registration Act, 1860 (*hereinafter referred to as the* 'Act, 1860') that is couched in a language which is somehow akin to the language in which Section 29A (9) of the RP Act is expressed. Section 4 of the Act, 1860 is quoted here under:-

> *"Section 4 in The Societies Registration Act, 1860*
>
> ***4. Annual list of managing body to be filed.***
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> *- Once in every year, on or before the fourteenth day succeeding the day on which, according to the rules of the society, the annual general meeting of the society is held, or, if the rules do not provide for an annual general meeting, in the month of January, a list shall be filed with the Registrar of Joint-stock Companies, of the names, addresses and occupations of the governors, council, directors, committee, or other governing body then entrusted with the management of the affairs of the society."*

37. The afore-quoted Section 4 of the Act, 1980 requires a society registered under the said Act to furnish a list of names, addresses and occupations of governors, directors and committee, etc. who are entrusted with the management of the affairs of the society, with the Registrar. Thus, the requirement in Section 4 of the Act, 1860 is also only to furnish the information.

38. Hon'ble Supreme Court in ***A.P. Aboobaker Musaliar (supra)*** was considering an order passed by the District Registrar of the Societies where he indicated reasons for accepting the list of members of the governing body of the society filed by some individual and objection raised to such list.

38.1 Learned Single Judge of the High Court, from where the said matter travelled to the Hon'ble Supreme Court, held that under Section 4 of the Act, 1860 the District Registrar has no power to adjudicate the controversy. The view taken by the learned Single Judge was challenged before the Division Bench of the High Court which observed that in case of such dispute, the Registrar has got the power to find out as to which list he has to accept for which purpose there may not be an elaborate inquiry and he has to be only *prima facie* satisfied. The Division Bench of the High Court also opined that a party dissatisfied with the acceptance of a such list can take up the matter before a competent Court seeking a declaration as to who are the members of the governing body.

39. Hon'ble Supreme Court upheld the view taken by the High Court in the said case and observed that merely because the District Registrar accepted the list of the governing body submitted by one of set of members and the other set of members were not satisfied with it, such acceptance of the list did not prevent the aggrieved party from establishing its claim before a competent Court. Paragraph 3 of the judgment in ***A.P. Aboobaker Musaliar (supra)*** runs as under:

> *"3. In the order passed by the District Registrar, he has indicated reasons for accepting the list of members of the governing body filed by E.K. Aboobaker stating that he was filing the lists for the earlier years and, if the appellant was claiming on the basis that he was competent to file, he has to establish the same. Learned Single Judge has taken the view that under Section 4, the District Registrar has no power to adjudicate the controversy. The Division Bench of the High Court, in the impugned judgment, has observed thus:*
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> > *"Thus, in the case of a dispute when more than one return is filed, the Registrar has got the power to find out as to which*

> *one he should accept. There may not be an elaborate enquiry. Prima facie he has to satisfy as to which return is to be accepted. In this case, we find that the list given by the appellant was accepted, because it had the support of court orders and also it was being followed for a large number of years. No doubt, such an enquiry made by the Registrar and the decision taken from it does not become final. The party can take up the matter before a competent court as to who are the members of the governing body."*
>
> *It is clear from what is stated above by the Division Bench that the enquiry made by the Registrar and the decision taken did not become final and the party could take up the matter before a competent court as to who were the members of the governing body. When there were two lists, the District Registrar, prima facie, on being satisfied, accepted the list filed by E.K. Aboobaker as he was filing the lists for the previous years also. The District Registrar has only taken into consideration the limited question of accepting the list of members of the governing body. The Division Bench of the High Court was right in taking the view that the list accepted by the District Registrar did not become final; if the appellant was aggrieved, it was open to him to establish his claim in a competent court/forum. To us, it appears even the District Registrar did not adjudicate any dispute as such. It was only a question of accepting, prima facie, the list of members of the governing body. If the appellant's claim was right and justified, merely because the District Registrar accepted the list of the governing body of members given by E.R. Aboobaker, it did not prevent him from establishing his claim in a competent court. Be that as it may, the controversy relates to accepting the list of the governing body members for the year 1990-91, thereafter, every year such list must have been submitted to the Registrar as required under the provisions of the Societies Registration Act. To us, it appears that the controversy raised in this appeal has become academic as of today. Thus, we find no merit in the appeal"*

40. Accordingly, we are of the opinion that on the objection raised by the appellant/petitioner before the ECI, the communications made by ECI *vide* letters dated 07.02.2017 and 24.05.2017, in this case, settle the issue. The appellant/petitioner, if was aggrieved by acceptance of the information furnished to the ECI under Section 29A (9) of the RP Act, had the remedy of

involving the jurisdiction of a competent Civil Court seeking a declaration of his rights, if any, which he did not resort to.

41. So far as the judgment relied upon by learned counsel for the appellant/petitioner in the case of ***Chandra Prakash Kaushik (supra)*** is concerned, the said judgment is clearly distinguishable on facts. In the said judgment it has nowhere been held by the Division Bench of this Court that Section 29A (9) of the RP Act vests any power or jurisdiction in the ECI to resort to any adjudicatory process in case dispute is raised in relation to the information furnished to it. The other judgment in ***Swami Chakrapani (supra)*** relied upon by appellant/petitioner is also of no avail to him for the reason that in paragraph 6(v) of the said judgment reference has been made to an order of the Division Bench of this Court dated 13.07.2012, passed in a review petition wherein it was held that the *inter se* disputes have to be resolved in a civil suit and if someone is claiming himself to the president of a political party, it was on him to seek a declaration to that effect. It was reiterated that ECI does not have any power to exercise any *quasi judicial* powers and decide *inter se* disputes pertaining to unrecognized political parties.

42. Learned counsel for the appellant/petitioner has also placed reliance on a judgment of Hon'ble Supreme Court in ***Subhash Desai (supra),*** however, reliance on the said judgment is highly misplaced as the nature of controversy and issues raised in the said matter were entirely different than the one engaging attention of the Court in the instant matter. Reference by learned counsel for the appellant/petitioner has been made to paragraphs

206(d), (f) and (g) which does not have any relevance to the nature of the issue involved herein.

43. In view of the discussions made and reasons given above, we are in complete agreement with the judgment passed by the learned Single Judge which is under challenge in the instant appeal, where it has been held that nature of reliefs sought by the appellant/petitioner in the writ petition are wholly outside the ambit and inquiry as contemplated under Section 29A (9) of the RP Act.

44. We, thus, concur with the opinion of the learned Single Judge, dismissing the writ petition. The instant appeal is, thus, found bereft of any merit, which, resultantly is dismissed along with the pending applications.

45. However, there will be no order as to costs.

(DEVENDRA KUMAR UPADHYAYA)
CHIEF JUSTICE

(TUSHAR RAO GEDELA)
JUDGE

FEBRUARY 28, 2025/MJ